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LEGISLATOR PER DIEM PAYMENTS -- TAX CONSIDERATIONS

This information is intended to assist legislators and their tax preparers in handling legislative per diem payments. Legislators should consult with their income tax preparers for specific requirements relating to individual circumstances.

General Rules

All legislator per diem payments, not exceeding the amount allowed by federal law, made to legislators living more than 50 miles from the capitol building are reimbursements made under an accountable plan, are not taxable income of the legislator, and are not subject to withholding or reporting. The difference between the amount allowed by federal law for reimbursement and the actual amount of per diem paid is taxable income.

Legislator per diem payments made to legislators who do not live in Helena but who live within 50 miles of the capitol building are not substantiated reimbursements and are thus reported as income. Withholding is made against these payments. All legislative lodging and meal expenses actually incurred by a non-Helena legislator living within 50 miles of the capitol building are unreimbursed expenses and, subject to certain limitations, may be a miscellaneous items deduction by the legislator.

Legislator per diem payments made to legislators who reside in Helena are reported as income and are subject to withholding. The legislator may not claim meal and lodging expenses incurred in Helena.

Accountable Plan

All legislator per diem payments made to a legislator whose home is more than 50 miles from the capitol building are employee reimbursements under an accountable plan for the following reasons:

1. Under IRC section 162(h), a legislator is considered to have substantiated living expenses if the legislator's place of residence is more than 50 miles from the capitol building.

2. Federal law provides one type of accountable plan for when the employee's "lodging plus meals and incidental expenses" per diem reimbursement is substantiated. (IRC section 62(a)(1)(A), 26 CFR 1.62-2(c)(2))

Excess Per Diem Payment

The amount considered substantiated under federal law cannot exceed the amount payable to federal employees for per diem within the U.S. For Montana, the applicable reimbursement rate, set forth in 41 CFR Ch. 301 App. A, is \$85 a day. The per diem payment made to legislators is \$87.25 per legislative day, set according to 5-2-301(4), MCA.

Reimbursements paid "under an accountable plan are excluded from the employee's gross income, are not reported as wages or other compensation on the employee's Form W-2, and are exempt from the withholding and payment of employment taxes (Federal Insurance Contributions Act (FICA), Federal Unemployment Tax Act (FUTA). . .)". (26 CFR 1.62-2(c)(4)).

Montana legislators were paid for 108 legislative days at \$87.25 per day, for a total of \$9,423. IRC Section 162(h)(2)(A) considers per diem substantiated during legislative session breaks of up to 4 days. Montana law provides for reimbursement only on breaks of 3 days or less. There was one day (Feb. 27, 2001) that was a fourth day in a session break. Federal law then allows substantiation of 109 days at \$85 a day for a total of \$9,265. A total of \$158 (\$9,423 - \$9,265) was paid in excess of substantiated expenses.

Therefore, although all legislators living more than 50 miles from the capitol building do not have their per diem payments reported on their W-2 Forms, they must pay taxes on the \$158 that is in excess of the amount considered substantiated under federal law.

Helena Area Legislators

Under 26 USC 162(h)(4), the special provisions allowing use of the federal per diem rate do not apply to legislators living within 50 miles of the capitol building. Therefore, those legislators must follow the provisions of 26 USC 274(d) and must specifically substantiate all lodging and meal expenses. Because 26 USC 274(d) requires out-of-town travel before a person can claim lodging and meal expenses, a legislator who lives in Helena cannot claim any meal or travel expenses for session activities occurring within Helena.

LAW AND JUSTICE INTERIM COMMITTEE

The Law and Justice Interim Committee (LJIC) is scheduled to meet next in Helena on March 28 and 29, in Room 137 of the State Capitol. Items anticipated for the March agenda include:

- the regular reports from the Judiciary, the Attorney General/Department of Justice, and the Department of Corrections;
- a briefing by Ed Smith, Clerk of Supreme Court, on the compilation and reporting, as required by 46-18-604, MCA, of certain sentencing information from district courts;
- items related to the HJR 39 criminal sentencing study; and
- member issues.

The committee also intends to observe oral arguments before the Supreme Court during the afternoon of Thursday, March 28. For more information about the Committee's activities, contact Dave Bohyer by phone at 406-444-3064 or by e-mail at dbohyer@mt.gov, or Chairman Rep. Gail Gutsche.

ECONOMIC AFFAIRS COMMITTEE

Committee to Meet Feb. 15...The Economic Affairs Committee will meet on Friday, Feb. 15, in Room 137 of the Capitol. The meeting is tentatively scheduled to begin at 10 a.m. The Department of Labor and Industry will provide its final recommendations to the committee on workers' compensation fee schedules for chiropractors, physical therapists, and occupational therapists.

The agenda and other information will be posted on the committee's website by Feb. 1. Contact Gordy Higgins at 444-3064, or by e-mail at gohiggins@mt.gov for more information.

SUBCOMMITTEE ON HEALTH CARE AND HEALTH INSURANCE

Subcommittee to Review Options...The SJR 22 Subcommittee will meet on Thursday, Feb. 14, in Room 137 of the Capitol starting at 9 a.m. The tentative agenda includes an update on Medicaid funding. John Morrison, Insurance Commissioner, will talk about the findings and conclusions reached as a result of his statewide round-table discussions. Morrison will also propose a series of policy options that are designed to reduce the percentage of uninsured Montanans and to make health insurance and health care more affordable.

The Subcommittee will spend most of the meeting discussing and prioritizing each of the recommendations raised since the beginning of the interim. Included among the many options are:

- tax credits for the purchase of health insurance;
- maximizing federal funds;

- prescription drug benefit programs;
- a health care inventory;
- redesigning health insurance purchasing pools; and
- market reforms.

Rep. Joe McKenney and Sen. Jon Ellingson encouraged members and study participants to provide any initial recommendations to subcommittee staff to ensure that all options are available for discussion. A list of all of the options proposed to date will be available on the Subcommittee's website prior to the meeting.

Contact Gordy Higgins at 444-3064 or by e-mail at gohiggins@mt.gov if you have questions or comments about the subcommittee's activities. The Subcommittee website may be accessed at: http://leg.mt.gov/Interim_Committees/Economic_Affairs/index.htm.

ENVIRONMENTAL QUALITY COUNCIL

Council to Meet Feb 8. . .The full EQC will meet in Helena on Friday, Feb. 8, at 8 a.m. in Room 102 of the Capitol. Jim Hill will describe the program capabilities of the state library's Natural Resource Information System, and Gary Hamel, Legislative Fiscal Division, will report on state wildfire suppression costs. Montana State University professor Jim Bauder and Montana Bureau of Mines and Geology hydrogeologist John Wheaton will discuss the science of water and soils in relation to coal bed methane development. A Montana landowner will present a perspective on coal bed methane development. Finally, the EQC subcommittees will provide progress reports on their activities. The EQC subcommittees will meet on Thursday, Feb. 7. Subcommittee activities are described below.

Minutes from previous meetings, EQC and subcommittee work plans, agendas, and press releases may be found on the EQC website at <http://leg.mt.gov/services/lepo>. If you have any questions or would like additional information or to be placed on the EQC interested persons mailing list, contact the EQC office at (406) 444-3742 or mtheisen@mt.gov.

Coal Bed Methane/Water Policy Subcommittee . . .The subcommittee will meet Thursday, Feb. 7, at 8 a.m. in Room 102 of the Capitol. The morning session will focus on the broad topic of water quantity and availability in areas of coal bed methane development. Coal bed methane production requires withdrawal of ground water in order to lower the pressure in the coal bed so that the methane can flow out of the coal. Items on the agenda include: the projected effects of coal bed methane development on water quantity, Powder River Controlled Ground Water Area monitoring, and perspectives on water rights and coal bed methane development.

The highlight of the afternoon session will be a presentation on total maximum daily loads (TMDLs). The Montana Department of Environmental Quality (DEQ) is

required by a federal district court order to develop by May 2007 TMDLs for all impaired water bodies that were identified on a 1996 list. Furthermore, the DEQ may not issue certain permits to discharge into an impaired water body until all necessary TMDLs are developed. Several water bodies located in the primary area of coal bed methane development in southeastern Montana are affected by the court order. The presentation will address the status of compliance with the court order as well as the effect of the court order on coal bed natural gas development.

The subcommittee will review the status of the draft environmental impact statement regarding coal bed methane development in Montana and other selected topics related to coal bed natural gas and water policy.

For more information, contact Mary Vandenbosch at (406) 444-5367 or at mvandenbosch@mt.gov.

Agency Oversight/MEPA Subcommittee . . . The subcommittee will meet Thursday, Feb. 7, at 8:30 a.m. in Room 152 of the Capitol. The subcommittee will review the cost of MEPA implementation and the statutory fee structure that provides for private payment of environmental impact statement costs. A 1997 law that requires the Departments of Environmental Quality, Natural Resources and Conservation, and Agriculture to provide the EQC with information about their compliance and enforcement activities and trends will be discussed with agency staff to determine the format, need, and value of the reporting requirements. The subcommittee will evaluate the existing funding mechanisms for financing state hazardous materials remediation efforts based on information to be provided by the DEQ, DNRC, and the governor's budget office. The subcommittee will also review the operation and financing of the state Petroleum Tank Release Compensation Fund, which reimburses fuel tank owners and operators for a portion of their cleanup costs that result from tank and piping leaks.

For more information about the subcommittee's activities you may review the EQC website or contact the subcommittee staff, Larry Mitchell, at (406) 444-1352 or at lamitchell@mt.gov.

Energy Policy Subcommittee . . . The subcommittee will meet Feb. 7 from 8:30 a.m. to 5:00 p.m. in Room 317 of the Capitol. The Subcommittee has a full agenda including reports on the following subjects:

- **Electric Industry Restructuring: A Primer, Update, and Discussion of Options** -- Matthew Brown, National Conference of State Legislatures
- **A Primer on Power Marketing** -- PP&L Montana
- **An Overview on How Electric Cooperatives Function in Montana** -- Dave Wheelihan, MT Electric Cooperatives' Association
- **Update on the Settlement Agreement Among Intervening Parties on Stranded Costs and the Sale of the Montana Power Company's Distribution System** -- Bob Nelson, Legislative Consumer Counsel, Jon Alke, Montana Power Company, Dennis Lopach, NorthWestern Corp., Don Quander, Large Industry representative, and a Public Service Commission representative
- **A Regional Perspective on Renewable Energy and Conservation** -- Peter West, Renewables Northwest Project

- **Public Power in Other States** -- Todd Everts

Staff memorandums, agendas, minutes, and the *Final Energy Policy Subcommittee Work Plan* can be found at <http://leg.mt.gov/services/lepo/subcommittees/energysub.htm>. For more information contact Todd Everts at (406) 444-3747 or teverts@mt.gov.

MONTANA LEGISLATIVE REFERENCE CENTER

Greetings and salutations from the new librarian in the Montana Legislative Reference Center. My name is Lisa Mecklenberg Jackson and I have been ensconced in the library for about four months. I have met a few of you, and look forward to meeting many more of you as the session draws ever closer. Here are just a few of the exciting things happening in your legislative library:

Redesign of the Legislative Branch Website...The Legislative Web Group, comprised of members from each legislative division, is working on redesigning the legislative website. Our goal is to make the website better organized, easier to use, and more aesthetically pleasing. We will be making a big push to get more content on the site as well. The House and Senate will have a larger presence on the new site, and legislators will be asked to provide biographical information, photos, committee assignments, and contact information both during and after the session. Our website will strive to be the one-stop place to find information on the Montana legislative process. The "new and improved" website will debut by July 1, 2002.

Committee Minutes from 57th Legislative Session Available Online...Go to the 2001 Legislative Session web page at http://leg.mt.gov/services/legal/01_session.htm and click on the Committee Minutes link. You can also access the minutes from the Montana Legislative Reference Center's Information and FAQs page at <http://leg.mt.gov/reference/index.htm>. Want to find minutes for a particular bill? Here's an example using HB 298:

First, find out which committees heard the bill and the hearing days by going to the Look Up Bill Information page at [http://laws.leg.mt.gov:8000/laws01/plsql/law0203w\\$.startup](http://laws.leg.mt.gov:8000/laws01/plsql/law0203w$.startup). Type in HB 298 and click Find. This brings up everything you need to know about HB 298. Scroll through the bill actions table to find the hearing dates and committee names.

HB 298 was heard in the House Local Government Committee on Jan. 30 and in the Senate Local Government Committee on March 6. At the 2001 Committee Minutes page (<http://data.opi.mt.gov/legbills/2001/minutes/01minutes.htm>), click on Local Government under House Standing Committees. You will see a list of days on which the committee met. Click Jan. 20 to open the minutes file. Then go to Local Government under Senate Standing Committees and click on March 6.

You can also find the minutes of House and Senate executive action using the

above procedure, just click on the Executive Action dates from the Bill Actions table.

How the Legislative Reference Center Can Help You...There are oh, so many ways. We have over 7,000 books on legislative-related issues, and our more than 500 periodical subscriptions provide up-to-date information on a wide variety of subject matter, including economic development, tax policy, and health care. We have research reports prepared by staff of the Legislative Services Division, the Legislative Environmental Policy Office, and the Legislative Fiscal Division. Wondering what ballot measures have been reviewed by legislative staff since 1981? See our Information and FAQs page at <http://leg.mt.gov/reference/index.htm>. Our extensive file of newspaper clippings and reports is organized according to subject and dates back to 1995 and is fully searchable at the library.

Do you want to find out what other states are doing with educational reform or criminal sentencing? Check out the latest acquisitions in the Legislative Reference Center at <http://leg.mt.gov/reference/newbooks.htm>, or get the most from pertinent and timely Web resources organized by topic at <http://leg.mt.gov/reference/WebResources.htm>. For further Web research on your own, check out our great selection of Internet bookmarks at <http://leg.mt.gov/reference/bookmarks.htm>. We also have access to Westlaw, Lexis, and Montlaw, and know how to use them. And we're always eager to assist you.

So, stop by the Legislative Reference Center the next time you're in Helena and say hello. Tell 'em Elvis sent ya (it will make sense once you've been here). If you have any questions, contact the Legislative Reference Center at (406) 444-3598 or Ljackson@mt.gov.

CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

Committee to Meet in February...The committee is scheduled to meet Feb. 12 and 13 in Helena, beginning at 1 p.m. on Tuesday. The agenda for that day includes:

- a review of tribal issues;
- a report from the Office of Public Instruction on the Montana Youth Risk Behavior Survey; and
- updates on various studies conducted in conjunction with other committees.

The Wednesday meeting begins at 8 a.m. and includes the following agenda items:

- a budget update from Gail Gray, Director, Department of Public Health and Human Services;
- a legislative fiscal analysis on the DPHHS budget;
- a review of the activities of the Child Support Enforcement Division, the Disability Services Division, and the Operations and Technology Division; and

- brief reports from representatives of the Lifespan Respite, the Montana Transportation Partnership, and the Mental Health Division.

The committee will tour the two public health labs and the centralized intake area of the Child and Family Services Division.

If you are interested in being placed on the interested persons list, please contact Susan Byorth Fox, Research Analyst, Legislative Services Division, at (406) 444-3597 or sfox@mt.gov.

DISTRICTING AND APPORTIONMENT COMMISSION

Commission Holds Public Hearings...The commission has completed the public hearings for new legislative districts in the north-central region of Montana, which includes Glacier, Pondera, Toole, Liberty, Hill, Blaine, Teton, Chouteau, and Cascade counties, and will accept written comment for this region through Feb. 7, 2002. The commission has also held public hearings for new legislative districts in the northeast region of Montana, which includes Phillips, Valley, Daniels, Sheridan, and Roosevelt counties, and has revisited Hill and Blaine counties. and will accept written comments until Feb. 8, 2002. Regional maps of proposals for legislative districts for the north-central and northeast regions are available through the "Redistricting" link on the legislative website (<http://www.leg.mt.gov/>).

Public Hearings Scheduled, Maps and Analysis to be Provided...The commission will hold public hearings for the southeast region of Montana on Feb. 19 in Miles City and Feb. 20 in Lewistown. The Miles City meeting includes Garfield, McCone, Richland, Dawson, Wibaux, Prairie, Fallon, Carter, Custer, Powder River, Rosebud, Treasure, and Big Horn counties, as well as the Crow and Northern Cheyenne Indian reservations. The Lewistown meeting will revisit a portion of the north-central region, and a comment period will be provided for Fergus, Judith Basin, Petroleum, Musselshell, Golden Valley, and Wheatland. The meeting schedule is as follows (additional details will be posted on the legislative website):

Feb. 19, 2002, Miles City
3:00p.m. Public hearing, public testimony accepted

February 20, 2002, Lewistown
3:00 p.m. Public hearing, public testimony accepted

Regional maps, descriptions, and staff analysis will be mailed to clerk and recorders, central committees, and legislators in the affected regions approximately two weeks prior to the hearings.

The commission will also hold hearings March 14 in Billings and March 15 in

Crow Agency, and in late April in Billings, Bozeman, and Butte. Staff is visiting each area about two months in advance.

Written Testimony Solicited...Please send any written testimony c/o Susan Fox at the Legislative Services Division. She will distribute the information to all districting and apportionment commissioners. The commission will not make any decisions on plans until after the deadline for written testimony has passed. The next region to receive staff visits will be counties in southcentral and southwest Montana.

For more information or to be placed on the commission's interested persons list, please contact Susan Byorth Fox, Legislative Services Division, P.O. Box 201706, Helena MT 59620. You may also call (406) 444-3597, or send e-mail to sfox@mt.gov.

LEGISLATIVE FINANCE COMMITTEE

General Fund Revenue Collections...Total general fund collections through December 2001 (fiscal year 2002) were \$38 million above collections for the same period of fiscal year 2001. Although this is a positive indicator of the state's financial condition, further analysis of individual income taxes and corporation license taxes, the two largest tax sources, indicates that general fund revenues may be showing signs of weakness. For the first time this year, individual income tax collections are less than they were during the same period of last year. A similar trend is occurring for corporation income taxes. Because these two sources contribute over 50% of the total general fund revenue collections, these trends are especially unsettling.

Other sources of revenue that the Legislative Fiscal Division is monitoring very closely are property taxes, investment earnings, and natural resource taxes. Because interest rates and some energy prices are below the levels anticipated by the 57th Legislature, slower revenue growth is already apparent in a number of these revenue sources, a trend that corresponds to deteriorating economic conditions.

In January, the Legislative Fiscal Division researched the revenue trends that are significant with the intent of providing an update in February. In the meantime, if you have any questions, please do not hesitate to contact Terry Johnson by e-mail at tjohnson@mt.gov or by telephone at (406) 444-2952.

Senate Bill 495, Part II: Impacts and Implications... At its December meeting, LFC members heard Part I of a report on the major provisions of SB 495 (legislation to enhance funding of schools and to stabilize the long-term growth of the common school trust fund) and the its implementation by the executive branch. It was pointed out that the implementation of the legislation raises numerous questions and issues. Part II of the report will answer these questions and further develop any issues remaining. Legislative Fiscal Division staff is waiting for executive branch responses to questions that will determine the remaining issues to be addressed in the report. The Legislative Services Division legal director and LFD staff met with the Secretary of State, Superintendent of Public Instruction, and their respective staff to discuss the lack of a buy/sell agreement

between the Board of Land Commissioners and the Department of Natural Resources and Conservation. Everyone agreed that such an agreement was imperative to document what was sold and purchased. For example, the executive branch verified its intent to purchase 100% of the school trust mineral production rights. Because this type of information is mandatory for any buy/sell agreement, the LFD is waiting for all the details to be developed by the executive branch. For further information, contact Roger Lloyd by e-mail at rlloyd@mt.gov or by telephone at (406) 444-5385.

Vacancy Savings/Personal Services Budgeting Study...HB 2 (the general appropriations act) requested that the LFC include in the Legislative Fiscal Division's interim work plan an analysis of vacancy savings and consideration of alternative options for funding personal services. It also provides that the committee work cooperatively with the governor's budget director in completing this analysis. The study is underway. LFD staff is gathering data about the current methodology, processes in other states, and alternative methodologies. As part of this study, LFD staff would welcome any input or comments that individual legislators might wish to provide. Legislators having questions or comments concerning this study may contact Todd Younkin at tyounkin@mt.gov or call (406) 444-2722, or Jon Moe at jonmoe@mt.gov or call 444-4581.

JOINT SUBCOMMITTEE ON POSTSECONDARY EDUCATION POLICY AND BUDGET

Subcommittee Formally Organizes...The Joint Subcommittee on Postsecondary Education Policy and Budget (PEPB) convened officially for the first time this interim on Jan. 10. The subcommittee includes members from the Education Local Government Committee and the Legislative Finance Committee as well as representatives from the Board of Regents and the governor's office. Sen. Royal Johnson and Rep. Art Peterson were elected subcommittee chair and vice-chair, respectively. The PEPB shoulders the statutory responsibilities for monitoring higher education outlined in Section 5-5-224(2)(a) through (2)(g), MCA.

Interim Work Begins...Developing statewide postsecondary education policy goals and legislative accountability measures for the Montana University System and identifying ways to improve the relationship of the Montana University System with the Legislature and other state entities are the subcommittee's goals for the interim.

Statewide Education Policy Goals and Accountability Measures... Subcommittee debate in January focused on defining the breadth of the policy goals/accountability measure project, specifically discussing which postsecondary education entities in the state should be included in a statewide policy statement. The subcommittee directed staff to draft a broad, statewide education preamble statement that includes all postsecondary education entities in the state, including the Montana University System, community colleges, tribal colleges, and independent colleges. Statewide education policy goals and any accountability measures that may evolve from this project would apply to those public

postsecondary education institutions that are governed by the Board of Regents and receive state funds from the Legislature. The subcommittee accepted the Board of Regents Strategic Plan (adopted in October 2001) as a starting point to discuss Montana University System policy goals.

Subcommittee to Meet March 13...The agenda will include discussion of the draft preamble statement, a review of the Board of Regents' Strategic Plan and the policy goals identified in the Strategic Plan, and an introductory discussion of accountability measures. The subcommittee will convene at 10:00 a.m. in Room 102 of the Capitol. For more information about the meeting, please contact Pam Joehler at (406) 444-5386 or by e-mail at pjoehler@mt.gov. Meeting information is also posted on the subcommittee's website at <http://leg.mt.gov>. Just click on "Committees" and follow the links to the Education and Local Government Committee, Postsecondary Education Policy and Budget Subcommittee.

STATE-TRIBAL RELATIONS

Committee Learns About Gaming...The State-Tribal Relations Committee met on Wednesday, Jan. 9 in Helena. As usual, the agenda covered a wide variety of topics from gaming to high-school dropouts.

Gene Huntington, Gambling Control Division, Department of Justice, reported on state tribal gaming compacts. He provided an overview of the federal Indian Gaming Regulatory Act (IGRA) and how IGRA overlays state law. He then talked about the compact negotiation process and finished with a status report on Montana-tribal compacts. The status of the compacts is as follows:

Salish and Kootenai Tribes

- compact negotiated in October and recently approved by the Secretary of Interior for 5 years
- provides for maximum number of video gaming machines equal to the number of non-tribal video gaming machines on the reservation
- allows higher payouts (\$1,500) and bets (\$5) at tribally-owned facilities
- does not require state approval for new location

Northern Cheyenne Tribe

- compact expires February 28, 2002
- Tribe has requested a short extension of the compact to allow more time to negotiate
- in the past, compact has been renegotiated each year

Chippewa Cree Tribe

- compact term is in effect until a new compact is negotiated
- Tribe has met with governor and requested negotiations
- no deadline for negotiations

Fort Peck Tribes

- compact expires in April 2002
- Tribe has not yet requested negotiations

Blackfeet Tribe

- Tribe has requested negotiations
- previous gaming compact was rescinded in 1997

Crow Tribe

- compact expires in 2003
- have worked with Tribe in getting tribal casino reopened

Fort Belknap Tribes

- no compact in place and no request for negotiations

Doug Morgieau, private gaming operator on the Confederated Salish and Kootenai Reservation and tribal member, told the committee that tribal members are at a disadvantage in the compacting process because the Tribe is concerned only with tribally-owned businesses, not businesses operated by tribal members. As an individual tribal operator, he is required to turn over 60% of his gaming revenue to the Tribe. Sarah Bond, Assistant Attorney General, explained that because IGRA promotes reservation economic development, IGRA discourages licensing of individual tribal operators. Tribally-operated gambling must use 100% of its revenue for economic development. IGRA also requires a 60/40 split of revenue for tribal member-owned businesses. Tribes have a choice of whether to license individual operators. Sen. Christiaens said that the committee will discuss Morgieau's concerns with the Salish and Kootenai Tribes during the committee's visit with that tribe this spring.

Committee to Support Area VII on Aging...At the meeting with the Chippewa Cree Tribe in September, tribal officials asked the committee about the possibility of having the federal funds for aging programs come directly to the tribes and not through the state. In response to this request, Charlie Rehbein, Senior and Long Term Care Division, DPHHS, described how aging programs are administered and funded in Montana. The Older Americans Act (OAA) that funds aging programs mandates that a state set up an administrative structure of geographically-based area agencies. In the early 1980s, Montana set up Area VII Agency on Aging that only serves American Indians living on reservations. Recently, the federal Administration on Aging notified DPHHS that Montana was in violation of the OAA and could lose its federal funding because Area VII resulted in geographic overlap between two area agencies. DPHHS was given until July 2002 to come up with a solution. DPHHS decided to apply for a waiver to allow the continuation of Area VII for a variety of reasons. Tribes would prefer to receive their funds directly from the federal government, but the OAA prohibits this. So, the Montana tribes support the continuation of Area VII. Rehbein told the committee that if it is interested in pursuing direct funding for tribes, it should wait until the OAA comes up for reauthorization in 2004. At that time, the committee can make recommendations for changes to

Montana's congressional delegation. In the meantime, Rehbein asked that the committee write a letter to the Administration on Aging in support of the waiver. The committee agreed to send a letter of support.

Coordinator's Office Looking to Hold State-Tribal Summits... Bruce Meyers, the Coordinator of Indian Affairs, presented a proposal to hold a series of state-tribal summits to address areas of continuing concern between the state and the tribes. He identified education, corrections, social services, and economic development as major areas of concern. These summits would be called town hall meetings, but they would not be town hall meetings in the usual sense of the term. Rather, they would be meetings between state and tribal officials. Meyers estimated that it would cost about \$32,000 per meeting with funding coming through grants from public and private sources.

Members Present Issues... Several committee members presented issues that they would like the committee to consider at a future meeting. Some of these issues include the high drop-out rate of American Indian students; Indian participation on state boards, commissions, and councils; disparities in reservation unemployment statistics between the tribes and the state; Indian involvement in the Workforce Investment Act; and direct federal funding for tribes. These issues will be addressed at future meetings.

To Meet in March... The committee will hold its next meeting on Mar. 27. Topics for that meeting include education, corrections, and economic development. For more information about the committee, please call Connie Erickson at (406)444-3064 or send an e-mail to cerickson@mt.gov. Meeting information will also be posted on the committee's website at <http://leg.mt.gov>. Click on "Committees" and follow the links to the State-Tribal Relations Committee.

EDUCATION AND LOCAL GOVERNMENT

Board Meets With Committee... The Education and Local Government Committee met on Friday, Jan. 11 in Helena. First on the agenda was a dialogue with the Board of Public Education. Dr. Kirk Miller, board chair, and Diane Fladmo, vice chair, introduced the other board members and board staff. Miller gave a general overview of the board's role in education in Montana. The board is responsible for the general supervision of all K-12 public schools in Montana. Its major responsibilities include school accreditation and teacher certification. Included in teacher certification is certification of teacher education programs and the revocation and suspension of teacher certificates. The board has two advisory councils: the Certification Standards and Practices Advisory Council and the Montana Advisory Council on Indian Education.

Miller and Fladmo discussed the recent congressional reauthorization of the Elementary and Secondary Education Act. The reauthorization, called the "No Child Left Behind Act", extensively amends and reauthorizes many of the programs of federal aid to elementary and secondary education. The act reflects many of the education proposals of President Bush. One of the more controversial programs is the requirement to

implement annual standards-based assessments for pupils in grades 3-8 in reading, math, and science. Montana will receive \$3.6 million for assessment development but the board estimates that the actual cost will be closer to \$9 million. The act also increases funding for special education but the increase does not meet the congressional promise to provide 40% of the funding necessary for special education programs. The increase in Title I funds for low-income students and other programs is offset by an increase in the number of students eligible for Title I. The Office of Public Instruction (OPI) is analyzing the act to determine its impact on Montana, both financial and educational. OPI will present its analysis to the committee at a future meeting.

Committee Hears Report From School Funding Council... Jeff Hindoien and Madalyn Quinlan of the K-12 Public School Funding Study Advisory Council presented the council's preliminary report and recommendations, including Gov. Martz's response to the recommendations. Supt. McCulloch presented her response to the recommendations as well. Committee members asked that both responses be incorporated into the preliminary report for presentation to the public. (A related article on the council's work and the committee's deliberations is found nearby.)

New Subcommittee Formed... Following committee discussion on how to proceed with the HJR 41 study of territory transfers between school districts, Sen. Nelson appointed Sens. Ellis and Glaser and Rep. Mangan to a subcommittee to finish up the work on HJR 41. The subcommittee will make recommendations to the full committee for final consideration. The subcommittee will hold four meetings in conjunction with the statewide public hearings on the school funding proposal. This will allow people from different parts of the state to participate in the subcommittee's deliberations.

For more information about the committee, please contact Connie Erickson at (406) 444-3064 or send an e-mail to cerickson@mt.gov. Information can also be found on the committee's website at <http://leg.state.mt.us>. Just click on "Committees" and follow the links to the Education and Local Government Committee.

PUBLIC SCHOOL FUNDING STUDY ADVISORY COUNCIL

Council Presents Report and Recommendations... On Jan. 11, the K-12 Public School Funding Study Advisory Council presented its preliminary report and recommendations on school funding to the Education and Local Government Committee. The report culminated a 5-month process in which the council met monthly to hammer out recommendations to address Montana's school funding problems. Jeff Hindoien, council chair, and Madalyn Quinlan, vice chair, made the presentation. The report included an executive summary, a detailed description of the recommendations, and a summary of the council's study activities and conclusions. Accompanying the report was Governor

Martz's response to the recommendations. Supt. McCulloch presented her response to the recommendations at the meeting.

Council Makes Eight Recommendations...The council made eight recommendations to the committee:

1. Create a countywide levy to fund the property tax portion of the BASE budgets of all school districts in a county.

The Council recommends that the BASE budgets for all school districts in a county be funded with a countywide BASE budget levy. This levy would be applied against the taxable valuation of the county and would replace the BASE budget levies of individual school districts. A countywide levy would provide a greater level of taxpayer equity than district levies. The HB 124 block grants for school district general funds will be used to reduce the countywide BASE budget levy.

2. Expand the county retirement levy to fund school district health insurance costs.

The council recommends that the county levy for retirement be expanded to fund the cost of school district health insurance. The council further recommends that the Legislature pursue the establishment of a state insurance pool for school district employees to reduce the risk and costs associated with health insurance coverage. Until the state insurance pool is established, the council recommends that the Legislature limit the amount that can be budgeted in the countywide fund for an employee to the rate established in 2-18-703, MCA for state employees. These rates are set at \$325 per month for calendar year 2002 and \$366 per month for calendar year 2003.

3. Use a weighted GTB calculation for both the countywide BASE budget levy and for the county retirement/insurance levy.

The council recommends the use of one measure for determining a county's eligibility for guaranteed tax base aid for any of the GTB subsidized county levies. A weighted GTB does a better job of narrowing the disequalization in county levies than the unweighted formula.

4. Adopt the transportation funding structure proposed in House Bill No. 163 from the 2001 legislative session.

The council recommends that state and county transportation reimbursements be provided to school districts based on the rated capacity of the school bus and the bus miles traveled on routes approved by the county transportation committee. The council recommends the elimination of the statutory requirement for a bus ridership count on high school buses. Under this proposal, buses of similar sizes will be eligible for the same reimbursement per bus-mile traveled regardless of the number of riders. The council recommends that HB 124 block grants to the district and county transportation funds be redistributed in the form of increased state transportation reimbursements.

5. Calculate the average number belonging (ANB) for a district with declining enrollment by using average enrollment over a 3-year period.

The council recommends that, with one exception, the ANB for a school district be calculated by averaging the fall and spring enrollment counts for a district over a 3-year period. An exception is made for a district that experiences growing enrollment. For these districts, the enrollment for the most recent year (i.e. the year prior to the current budget year) would be used for calculating ANB. Averaging ANB would soften the financial impacts of declining enrollment on a district. If the 3-year averaging is adopted, it may be feasible to eliminate the "soft caps" in 20-9-308(3)(a)(i), MCA, without causing harm to districts. The council recommends further analysis of the elimination of the soft caps.

6. Provide an annual inflation adjustment tied to the Consumer Price Index (CPI) for the basic entitlement, the per-ANB entitlement, and special education funding.

The council recommends that the present law budget that is presented to the Legislature for K-12 BASE aid include an annual inflation adjustment that is tied to the CPI. This would acknowledge both shifts in enrollment and the impact of inflation on the cost of educational services.

7. Use the HB 124 block grant for debt service to expand school facility payments to all low-wealth school districts that have outstanding general obligation bonds and to increase the school facility payment.

The council recommends that the funds that are presently allocated for HB 124 block grants to the debt service fund be redirected into school facility payments. Under current law, only low-wealth districts that sold general obligation bonds after July 1, 1991, are eligible for school facility payments. The council proposes that all low-wealth school districts with outstanding general obligation debt be eligible for school facility payments.

8. Allow school district trustees to allocate the remaining balance of a district's HB 124 block grants to any budgeted fund of the district.

For the HB 124 block grants that are not affected by other recommendations contained in this report, the council recommends that school districts receive an unrestricted block grant. The district trustees would determine where to allocate these non-levy revenues among the budgeted funds of the district.

In addition to the eight recommendations, the council identified three areas for further study:

- the adequacy of school funding;
- combining the funds for bus depreciation, building, building reserve, technology acquisition, and lease or rental agreements into a capital projects fund; and
- teacher shortages/teacher salaries.

The total cost of the recommendations has not been fully calculated. A fiscal analysis of the recommendations will be available in February.

Responses from the Governor and Superintendent of Public Instruction...Gov. Martz generally favored the recommendations with some exceptions. She was concerned that including health insurance in the retirement levy would result in a property tax increase. She was also concerned about the annual inflation adjustment tied to the CPI. She felt that this could have a negative impact on the state's ability to deal with rising costs and falling revenues in other areas. She could not unconditionally support this recommendation.

Supt. McCulloch supported all of the recommendations. Because of the possible property tax increases associated with including health insurance in the retirement levy, she encouraged the committee to consider some mechanism for providing state support for this proposal.

Committee to Conduct Statewide Public Hearings...Following the presentation of the report and recommendations, the committee adopted a schedule of statewide public hearings. The purpose of these hearings is to gather comments on the recommendations and provide the governor with a summary of the hearings and recommendations for changes to the preliminary report. The hearings will be held in nine locations across the state in March and April. The schedule is as follows:

Monday, March 11 - Shelby
 Tuesday, March 12 - Great Falls (also on MetNet)
 Wednesday, March 13 - Lewistown
 Tuesday, March 19 - Stevensville
 Wednesday, March 20 - Kalispell

Tuesday, April 2 - Miles City
 Wednesday, April 3 - Wolf Point
 Wednesday, April 17 - Yellowstone County
 Thursday, April 18 - Butte

The exact location and time of each public hearing will be available from the Legislative Services Division, (406) 444-3064, in early February.

For a copy of the recommendations, contact Jeff Hindoién, Governor's Office, at (406) 444-3111 or <jhindoién@mt.gov> or Connie Erickson, Legislative Services Division, at (406) 444-3064 or <cerickson@mt.gov>. The recommendations are also available on the Internet at http://www2.mt.gov/budget/Ed_Committee.

REVENUE AND TRANSPORTATION COMMITTEE

POINTS Subcommittee...Since the publication of the January edition of *THE INTERIM*, the Legislative Finance and Audit Committees and the Revenue and Transportation Interim Committee (RTIC) have all appointed members to serve on a subcommittee to hear progress reports from the Department of Revenue (DOR) on repairing defects plaguing POINTS (Process Oriented INTEgrated System), phase I and on implementation of POINTS, phase II.

Language in HB 2 requires the DOR to provide a POINTS update at every RTIC meeting. The subcommittee work is intended to coordinate the activities of the three committees that are interested in POINTS and will not result in a discontinuation of POINTS reports to the full RTIC. At its February meeting, RTIC members will determine the extent and scope of POINTS reports they wish to continue receiving.

The POINTS subcommittee is scheduled to meet from 9 a.m. to 11:30 a.m. on Thursday, Feb. 7 in Room 137 of the Capitol.

SJR 21 Agricultural Land Tax Study...Last September, committee members agreed that they wanted to hear from individuals and organizations who may be affected by changes in agricultural land tax laws resulting from the SJR 21 study. Prior to the December meeting, staff sent notices and invitations to appear to over 30 individuals and organizations identified by committee members and through lists of registered lobbying groups.

Only three groups sent representatives or provided testimony: the Montana Association of Realtors (MAR); the Smart Growth Coalition; and the Montana Stockgrowers' Association (MSGA).

MAR urged caution in making broad changes to the current system without a full understanding of all interested parties and how they would be affected. "[T]his study ... shines the light on our continuing struggle to find equity in a structure that keeps taxing the same people -- but just moves the burden around," MAR testified. "What we need is business growth and new jobs that bring new tax revenue. [W]e would encourage this Committee not to invest too many of its limited resources in simply tinkering with the status quo knowing that the potential for causing as much harm as good looms pretty large," the testimony concluded.

The Smart Growth Coalition commented that "Montana's current agricultural taxation system works at cross-purposes by both lowering taxes on working farmers and ranchers while at the same time encouraging land speculation and even subsidizing the wasteful development of farm and ranch lands." The Coalition suggested improving the system by:

- changing the agricultural use tests to ensure that only working farmers and ranchers benefit;
- providing real tax support to working farms and ranches by tying taxes to household income; and
- eliminating subsidies that promote land speculation and the wasteful development of farm and ranch lands.

The Coalition offered specific suggestions for effecting the above changes.

MSGA submitted a memorandum that contained the following points:

- Whatever else the committee does, it should maintain productivity-based valuation of bona-fide agricultural land.
- MSGA favors the institution of use-based tests rather than income tests to identify agricultural land for tax purposes. MSGA noted that this approach may encourage the continuation of agricultural production.
- MSGA encouraged recognition of Montana's vast differences in productive capabilities and "not penalize the 'less productive' land."

Staff provided RTIC with a list of the following options to consider:

- do not change the current system;
- issue a statement/policy guidance expressing the values the committee thinks should be emphasized;
- change the definition of agricultural land or create new definitions for land that is not engaged in agricultural production;
- revise or eliminate the income test;
- change acreage categories;
- establish alternative ways to prove agricultural use;
- require that non-qualifying agricultural land be taxed at a percentage of class four property;
- create a new property classification for non-qualifying agricultural land with its own criteria, valuation methodology, and rate;
- explore the use of zoning (e.g., similar to Oregon);
- establish tests that an owner of land over 160 acres must meet for the land to be considered agricultural for property tax purposes;
- resurrect SB 516.

The committee discussed the options but decided not to explore any particular avenue, opting to let the matter "simmer" among members and revisit it in February.

Next Meeting Scheduled... RTIC's next meeting will be Thursday and Friday, Feb. 7 and 8, beginning at 12:30 p.m. on Thursday and adjourning around 2:30 p.m. on Friday. Those on the RTIC mailing list should have received an agenda during the week of Jan. 28.

If you would like to be added to the mailing list please contact Miko Owa, RTIC secretary, at (406) 444-3064 or via e-mail at mowa@mt.gov. If you have questions about committee activities or the upcoming meeting, please contact Leanne Kurtz, RTIC staff, at (406) 444-3064 or via e-mail at lekurtz@mt.gov.

TRANSITION ADVISORY COMMITTEE

Meetings Scheduled for February...The transmission and USBP subcommittees will meet Feb. 14 in Helena. The USBP subcommittee will meet at 8 a.m. in Room 172 of the Capitol and the transmission subcommittee will meet at 10 a.m. in Room 102. The full committee will meet Feb. 15 in Room 317. For more information about the committee or the transmission subcommittee contact Jeff Martin at (406) 444-3595 or jmartin@mt.gov. For more information about the USBP subcommittee contact Todd Everts at (406) 444-3747 or teverts@mt.gov.

DEAR MASON AND ROBERTS

Dear Mason and Roberts: Seems to me like I've been voting all my life. My mom sometimes let us kids vote on what we wanted for dinner; hot dogs always won. In middle school, the students voted to ban the dress code; the administration ignored us. I voted in my first presidential primary in 1972; my guy lost.

Anyway, during last session, I figured out fast that voting counts for a lot in the legislative process. Understanding the rules about voting can be a daunting proposition, and I didn't have the initiative to learn everything that I need to know. I have finally decided to cast aside my fears and have elected to ask you for advice. Will you yield to the following questions?

Much obliged,
Senator Chad Tally

Dear Sen. Tally: The laws and rules governing voting are a bit tricky. We'll do our best to help you sort through them. Fire away!

Q: If I'm present during second or third reading on the floor or during executive action in a committee, do I absolutely have to vote on a particular bill?

A: Generally speaking, you must vote on a bill if you are present on the floor or in committee. The state's ethics law (2-2-112, MCA) provides that "a legislator has a responsibility to the legislator's constituents to participate in all matters as required in the rules of the legislature".

Senate Rule 50-10 requires a senator "to be present at every sitting of the Senate" and to "vote on questions put before the Senate" unless excused. If a senator has a conflict of interest relating to a particular bill, he or she must vote on the bill after orally disclosing the interest before the vote is taken (Senate Rule 50-10, 2-2-112, MCA).

House Rule 50-190 requires a representative to "vote to decide any motion or question properly before the House". The rule further provides that a member who is present must vote "unless the member has disclosed a conflict of interest to the House". After disclosing the interest, the representative may choose whether or not to vote on the issue.

There are no joint, House, or Senate rules requiring a member to vote on all questions raised in a standing committee. Although voting when present is the norm, on

occasion a committee member may abstain from voting.

Q: Are all votes on bills and amendments recorded? May we vote by secret ballot?

A: Sorry -- no secret ballots allowed! The Montana Constitution requires votes on bills and amendments to be recorded. Article V, section 11(2), provides that "[e]very vote of each member of the legislature on each substantive question in the legislature, in any committee, or in the committee of the whole shall be recorded and made public". The votes are made public by entering them in the Senate or House journal or the minutes of the appropriate committee.

On a nonsubstantive (e.g., procedural) question before the Senate or House, a vote must be recorded in the journal if requested by two members (Joint Rule 10-150, Senate Rule 10-130, and House Rule 50-150). (Note that in the House, it takes a request from only one member to get a recorded vote, but a request from two members is needed to have the vote recorded in the House journal (House Rule 50-150).)

Q: What happens if I'm called home to handle a family emergency or I'm wrapped up in other legislative business and cannot cast a vote in committee or on the floor? May I vote absentee?

A: Yes, both the Senate and House rules permit absentee voting. A Senate standing or select committee, by majority vote of its members, may allow a member to vote in absentia while engaged in other legislative business. This authorization must be recorded in the committee minutes (Senate Rule 30-70). On the Senate floor, a type of absentee voting called "pairs" is used. Under this arrangement, an excused senator may enter into a written agreement with a senator who is on the opposing side of the motion to be voted upon whereby the opposing senator agrees not to vote on the motion during the excused senator's absence. The effect of this agreement is that the two votes offset each other. A pairing agreement must be dated and signed by the participants, specify the duration of the pair, and be filed with the Secretary of the Senate. (Senate Rule 50-190) Note that pairs are prohibited in standing committees (Senate Rule 30-70) and the Committee of the Whole (Senate Rule 50-190).

In a House committee, a representative may vote by proxy using a standard form or through the vice presiding officer or minority presiding officer (House Rule 30-50). On the House floor, a representative may file an absentee vote authorization form to vote during an excused absence. The authorization form must be signed, specify the motion and desired vote, and be handed in at the rostrum by the party whip or designated representative before voting on the motion begins (House Rule 50-210).

Q: Every once in awhile during third reading, I goof and hit the red button when I really meant to press the green one. May I change my vote after the result of the vote has been announced?

A: Sorry. As a senator, you are out of luck. A senator cannot change his or her vote after the result of the vote has been announced (Senate Rule 50-180).

In the House, however, a representative may move to change his or her vote within 1 legislative day of the vote if the change does not effect the outcome of the

legislation. This motion, which is nondebateable, may be made on Order of Business No. 9, Motions. The motion must pass unanimously to be effective (House Rule 50-200).

Q: One time in committee, the vote on a motion to pass a bill was tied. The chairman said that the motion failed. Was he right?

A: Yes. Although neither the Senate nor House has a specific rule governing tie votes in committee or on the floor, Mason's Manual of Legislative Procedure provides that a tie vote decides nothing and leaves the situation unchanged. A majority vote is needed to take affirmative action (Mason's section 513). In addition, House Rule 30-50 requires that all motions made in committee "may be adopted only on the affirmative vote of a majority of the members voting".

Do you have rule questions that you would like us to cover in this column? If so, send them to Lois Menzies, Legislative Services Division, PO Box 201706, Helena, MT 59620-1706 or lomenzies @mt.gov.

TIME AND TIDE

<u>Event</u>	<u>Days remaining</u>
Target date for completion of interim committee work (September 15, 2002)	227
General election (November 5, 2002)	278
58th Legislature convenes (January 6, 2003)	340

BACK PAGE

LVMYPLT NYOURS2 How Does Your Plate Rate?

By Leanne Kurtz
Legislative Research Analyst

PRELUDE TO VANITY

If someone handed you \$10,000, what would you do with it? Sure, it's not the million bucks that starving for a month and a half in some pseudo-wilderness exposing all of your ugliness, faults, and bad-hair days in front of a nationwide television audience will garner,¹ but think of the possibilities. Ten-thousand dollars would go a long way toward a down payment on a decent house; ten grand would get you a deluxe cruise to some exotic Caribbean isle; ten thousand smackaroos would buy you a cool motorboat; ten thousand greenbacks would keep a person in Top Ramen three times a day for 27 years!

Was it dreams of Top Ramen every day for the rest of her life that persuaded an elderly Massachusetts woman to sell her low-digit license plate (number 94) to a millionaire for his son's SUV?² Doubtful, but no matter what you plan to do with it, that's a lot of dough and just one example of the curious license plate mania that is sweeping the country. At issue are low-digit plates, personalized plates, specialty plates, and oh yeah--county designations (at least in Montana). There's no question that license plates have assumed a significance well beyond a government-issued identification tag. The observations contained here do not presume to answer questions about why this has occurred, whether

¹ This is not a reference to the legislative session, as some may assume, but to the wildly popular and strange CBS series, "Survivor". Comparisons between the two are left to the reader's imagination.

² Justice was done in the end. After being approached by the millionaire and offered the \$10,000 for #94, the elderly lady told the Massachusetts Registry of Motor Vehicles that the millionaire's son was her grandson, which made the "trade" technically legal. But her claim to the Registry was never notarized because, well, she was lying. The Registry figured it out, the millionaire's kid lost #94, and the elderly lady lost her \$10,000.

Low-digit plates were once used as a pay off for political favors, and rumor was that police, for fear of incurring political wrath, looked the other way when a vehicle with a low-digit number was spotted careening through Boston Common. In the aftermath of "Plategate" a 1987 license plate scandal that shook the statehouse to its very foundations, Massachusetts Governor Dukakis instituted a lottery for low-digit hopefuls.

it is a good thing or a bad thing,³ and what this phenomenon says about the human psyche--that's fodder better suited for a psychology master's thesis. But it's a fascinating bit of quirkiness and presents a welcome reprieve from Osama, the tanking stock market, Enron's collapse, "dirty" bombs, and budget deficits.

With the exception of the county designations (you know, Silver Bow is #1...forever), Montanans don't seem to be too concerned about a low-digit plate as a status symbol, at least not to the point of engaging in criminal activity to have one. But license plate fever has not spared our fair state--just ask the legislator who said he's had more constituent complaints about the 2000 issue plates than any tax policy, speed limit proposal, hunting law, or water rights bill that has crossed his desk. Or if you have a lot of time to waste, have 20/20 vision, don't nod off easily, and have a desperate, burning need to know more about how all this plays in Montana, refer to section 61-3-332 in the Montana Code Annotated. It's been amended 47 times since 1917, contains 3,143 words, and is one of the most convoluted chunks of Montana law you will ever find. It is a hideous 12-headed beast that slumbers quietly in the middle of Volume 8 until it is disturbed every 2 years for further agonizing surgery. Then no one is safe from its wrath and it leaves broken bits of bill drafters, editors, lobbyists, and legislators in its wake. But it wasn't always this way.

BY THE NUMBERS

Massachusetts was the first state to issue license plates in 1904. It wasn't until 1913 that the Montana Legislature followed suit and enacted the concept now embodied by Section 61-3-332. Sec. 1, ch. 9 (Ch. 72, L. 1913) provides:

Every person owning any motor vehicle (other than traction engines, road rollers and vehicles running on rails or tracks), shall, at the time of paying for and procuring the license thereon as provided for by law, equip said motor vehicle with a suitable tag of a permanent character, the dimensions of which shall not be less than twelve inches long and four inches wide, said tag to be exhibited on the rear end of said motor vehicle at all times, and the number of said tag must correspond with the current number of said license issued to the said motor vehicle.⁴

It seems that the 6,000 motor vehicle owners in Montana had generous latitude to put any kind of tag on their cars, as long as it was big enough and had a number. A guy could let his creative spirit soar as he thoughtfully and meticulously designed his own distinctive vehicle tag that reflected his feelings about the grandeur of his home state, unfettered by bureaucratic restrictions and government interference. Chances are, he stuck a piece of

³ After the outcry had ensued over Montana's new 2000 issue plates, an August 1999 editorial in the *Missoulian* called for reason, concluding that "It's wrong to care too much about your license plate."

⁴ No need to count, the word "said" is used six times.

metal on his fender and called it good.

In 1915, the Legislature got a little pushier. Could it be that after 2 years of free reign, the people of Montana could not be trusted to design tasteful emblems to affix to their automobiles? Did someone cut out a silhouette of a naked lady like the one that graces mudflaps commonly seen today on big muscle trucks and drive around with it on their fender? Sec. 3, Ch. 65, L. 1915, provides:

That every motor vehicle, registered in accordance with the provisions of this Act, shall have the distinctive number and registration mark assigned to it by the Secretary of State,⁵ as hereinbefore provided, displayed on the front and rear of such motor vehicle, as an identification mark, securely fastened, so as not to swing, and it is further provided, that such distinctive number as an identification mark shall consist of a metal plate not less than six inches wide and not less than fifteen inches long, upon the face of which shall appear the distinctive number assigned such motor vehicle by the Secretary of State, the numerals of which shall not be less than four inches long nor each stroke less than one-half inch in width. Such number to be followed on the plate with the letters "Mon" and the number of the year for which such plate is issued. The color of the background numerals and lettering upon such plate shall be designated each year by the Secretary of State.

The Beast recovered quickly from its second surgery and settled in for the biennium.

The license plates issued in compliance with the 1915 law had a black background with white numbers--basic, clear, utilitarian. The 1917 issue has a white background with red numbers, and in 1924, we were back to basic black and white. Numbers were assigned consecutively with no regard to where in Montana the licensees resided. Then all hell broke loose in 1933 when the Twenty-third Legislature threw county designations into the mix.

According to a September 2001 article in the *Missoulian* for which Paul Verdon, a retired Legislative Council research analyst who had done extensive research into the origins of the county numbering system was interviewed, county designations were instituted to put an end to the practice of shopping from county to county for the cheapest license plate fees. Ostensibly using 1930 Census figures, the Legislature determined that Silver Bow

⁵ Motor vehicle licensing responsibilities have since been moved to the Department of Justice, but several other states continue to assign that function to the Secretary of State.

County residents would sport the number 1, Cascade County, number 2, and so on.⁶ Verdon told the *Missoulian*, however, that only the first five or six counties were consistent with their rank in the state's population according to the 1930 Census. "After that," he told reporter Rob Chaney, "they just went hog-wild, no rhyme or reason to that. Lincoln County got 56, although it was never lower [in population] than 18th or 20th. How that was assigned nobody knows." It is widely speculated that politics (gasp!) may have had a hand in the allotment of numbers 6 through 56.

Sen. Mike Sprague of Billings kited a proposal during the 1999 session that would have reordered the county numbers based on the 2000 Census. The Senate Highways and Transportation Committee gave SB 156 a "Do Not Pass" recommendation, which the full Senate adopted 43-3. Had it succeeded, Lincoln County residents would have traded in their number 56 for an even 10 and the top five would have been reassigned as follows: 1--Yellowstone; 2--Missoula; 3--Cascade; 4--Flathead; and 5--Gallatin. Silver Bow would have had to settle for number 8, and the 493 residents of Petroleum County would have assumed their rightful place at number 56. It would have put Petroleum County on the map! Everyone remembers the last one. Everyone knows that Lincoln County is 56.

SB 156 had no proponents, and Sen. J.D. Lynch of Butte voiced the lone opposition, commenting that, in some instances, tradition deserved a front seat to accuracy. After all, the Battle of Bunker Hill was not fought on Bunker Hill but on Breed's Hill. Accurate? No. Tradition? You bet. See, it's those pesky Bay Staters⁷ messing things up again. In his *Missoulian* article, Chaney quotes Sen. Arnie Mohl, Senate Highways Committee chair, as telling the Senate, "Our committee wrestled with the meaning, the history, the tradition, and the purpose of numbered license plates. What do they mean? What should they mean? What is God's design?"⁸ Silver Bow County residents can likely rest assured that their place atop the license plate pile is secure.

The Beast in Volume 8, already having been subjected to some 40 surgeries during its lifespan, convulsed and groaned in its sleep as the debate over SB 156 came to an end.

⁶ The list of county designations fixed on the driver's side sun visor can provide hours of entertainment for a road-weary family. Perhaps having the list memorized should be part of the residency requirement for receiving a Montana driver's license. It's no easy task.

⁷ After much speculation about what a person from Massachusetts was called ("Massachusettsian"? "Massachusetsite"? "Massachusettser"?) LSD's crack Reference Center Librarian discovered that "on December 18, 1990, the legislature decided that the people of the Commonwealth would be designated as *Bay Staters*." (from a State of Massachusetts web page)

⁸ If God were to design a Montana license plate, what would it look like?

NEW PLATE, NEW DESIGN, NEW CONTROVERSY

But the 1999 Legislature was not finished with 61-3-332. Rep. Red Menahan introduced HB 648, requiring a new issue of license plates every 4 years. Testimony revealed that the reflective material that law enforcement needs to see the plates in the dark wears off after about 4 years and since license plates are really sort of *supposed* to be easily read by law enforcement, new issues would be a good idea. Deadbeats who fail to register their vehicles on an annual basis would also be forced, at least every 4 years or so, to suck it up, pay the fee, and get the new plate. HB 648 eventually made it through the Legislature, and thus began the mission to develop a design that would satisfy the majority of Montanans.

In May 1999, the License Plate Advisory Committee gathered to kick around ideas and agree on a design. It seemed pretty straightforward. The plate should be blue, to honor Montana's big sky. The buffalo skull should stay, as should the words "Big Sky". Things were going well. Picture the crew of Apollo 13 as their spacecraft drifted easily through space, the first 2 days of their mission off to a smooth start, their bodies floating lazily about in weightlessness. "This is the crew of Apollo 13 wishing everybody there a nice evening, and we're just about ready to close out our inspection of Aquarius and get back for a pleasant evening in Odyssey. Good night," Jim Lovell said as he signed off of a nationwide broadcast, 9 minutes before the first oxygen tank blew up.

The committee had a tough job to do and a tight time frame under which to pick a design that did not interfere with the original purpose of a license plate, looked good, had some Montana-specific meaning, and trickiest of all, didn't offend anybody.

In August 1999, the committee released its first rendition of the new plate, which was met with great gnashing of teeth, rolling of eyes, tearing of hair, and cries of "dull!", "boring!" "ugly!". Bob Anez, Associated Press Capitol Bureau reporter, wrote that critics had responded that the plate "failed to capture the grandeur and individuality of Montana and its citizens." The committee met again to consider additional colors and ways to jazz the thing up a bit, keeping paramount the plate's readability, not to mention the requirements for plate design set out in 61-3-332. In September, the panel decided to enlarge the buffalo skull in the corner of the plate and color it a dark red. Larry Fasbender, Deputy Attorney General and chair of the committee, admitted to Erin Billings, Lee Newspapers reporter, that the new design would not make every Montanan happy but said it is intended to combine tradition and color to appeal to most. "Everyone had something different that represented Montana to them," Fasbender told Billings, "I think we have a cleaner, more readable plate than we had before. These are identifiers for cars."

Later in September, worry that the red buffalo skull would add fuel to an already heated Yellowstone bison controversy prompted the committee to change the skull's color to blue. The committee also approved the addition of stylized mountains and prairie in light purple and gold. By mid-October, the committee declared the design a "go," and in March 2000, the great license plate design debate fizzled as county courthouses all over Montana received their shipments from the prison. Of course, that didn't end the wailing and

suffering of those who didn't approve of the design, but the 2001 Legislature enacted a generic specialty license plate bill that provided salve to the wounds of those who continued to despair.⁹

SECTION 61-3-332 IN FOR THE EQUIVALENT OF A QUADRUPLE BYPASS.

Amateur radio operators were the unwitting pioneers of the specialty license plate movement that culminated in the Montana Generic Specialty License Plate Act in 2001. The radio operators received a specialty plate in 1957, followed by centennial plates and collegiate plates in 1989. In 1993, fraternal organizations tried for a specialty plate and were denied. In 1995, child health advocates followed suit and suffered the same fate. During the 1997 Legislature, Boy and Girl Scouts advocates and whirling disease foes brought specialty plate proposals to a House Transportation Committee that expressed general opposition to the proliferation of specialty plates. Both bills failed to reach the House floor. In 1999, the Department of Justice proposed the idea of a generic specialty license plate. If the bill passed, an organization would apply to the Department and, if qualified, could put their own design on a standard plate and collect a separate fee to augment the organization's coffers. The bill failed to pass through the hedgerow that was the 1999 House Transportation Committee, but when introduced in 2001, similar legislation passed both houses.

The Beast in Volume 8, now larger and more vicious than ever, rejoiced at the pain it had caused others and dreamed of the devastation it would wreak in 2003.

The Lewis and Clark Bicentennial Commission took the lead in applying for sponsorship of a specialty plate, followed closely by the Glacier Park Foundation and other groups. One of the significant benefits of the legislation, invisible to the general public but tremendously meaningful to those charged with drafting bills, is that poor old section 61-3-332 will not have to be amended every time a new plate comes along. The 2001 Legislature also gave the Department of Justice the authority to acquire a new system for making license plates, so state prison inmates will no longer be stamping numbers onto metal plates, leaving prison with a skill unlikely to find a counterpart on the outside.¹⁰ The new system requires the use of computer graphics and printing. The design and unique number (or creative personalized message) are printed on reflective material applied directly to the plate. The organization and its design must meet with the Department's approval, and it's a good thing that there will be some oversight, judging from some of the art that other states have allowed to be released willy-nilly among the driving public.

⁹ For the record (if there is one), I *like* the 2000 issue plates. They're clean, simple, pleasant, and legible, except when covered in Montana winter mud and grime.

¹⁰ *Somebody* must have to stamp those little personalized license plates with names on them that kids put on their bikes, but a released inmate would probably have to go to China to find work making them.

ET TU SUPERMAN?

Who knows how many bad guys got away in Virginia after the first "Virginia Fall Leaves" design was released because law enforcement couldn't discern the license plate number from the heap of leaves strewn across the plate? Tennessee's initial State Parks release was no better with the number obscured by a garden of irises or some other similar-looking flower important to Tennesseans. Displaying varying degrees of taste, which is, of course, all in the eye of the beholder, there are Shakespeare festival plates, "Support the Arts" plates, environmental plates, plates that celebrate agriculture, otters, steam engines, estuaries, bicyclists, the Nevada Nuclear Test Site, the Flagship Niagra, children, horses, hunting, houseplants, and Italian food.¹¹

If license plates are on your list of "Top Five Things I Really, Really, Really Care About A Lot", you should avoid Pennsylvania and move to Illinois. Pennsylvania Governor Tom Ridge, an outspoken specialty plate Scrooge, put his foot down and vetoed a broad transportation bill last year because it contained enabling language for more specialty plates. "We view the plate not as a canvas for message but for its intended purpose: as identification for law enforcement and vehicle control," an official with the Pennsylvania Department of Transportation told the Philadelphia Inquirer. Illinois, on the other hand, allows the production of "special event" plates that a motorist can use for the duration of the event. Hence, there is a "Superman Celebration" plate proudly displayed by residents of Metropolis, Illinois, a "Bald Eagle Days" plate, a "Tuscola Christmastown and Parade" plate, a "Route 66 Cruisers" plate featuring the "Hardee's" logo, and several others. A low-digit Superman Celebration plate must be a collector's dream, for low-digit plates are so coveted by some Illinois motorists that an inventive assistant to the Secretary of State padded his candidate's campaign war chest with money received in exchange for low-digit plates.

Illinois Governor George Ryan served as Secretary of State in the late 1990s and claims to have had no knowledge of the creative fundraising carried out on his behalf. It seems that one of Ryan's employees in Chicago, Larry Hall, managed to raise about \$10,700 for Ryan's gubernatorial campaign and the campaigns of a state senator and a state representative. Hall admitted having participated in the nefarious project, which turned out to be just one illegal activity among many in the Secretary of State's office, prompting a long-running federal investigation called Operation Safe Road. Hall struck a plea agreement, so he is probably not, in what would have been an ironic twist of fate, stamping out low-digit license plates at the state prison.

There are dozens of license plate anecdotes scattered across the country in local newspapers, each one more bizarre than the last. Otherwise rational people lose all composure, sense, and reason when it comes to the 6-by-12 inch identification tag they display on their vehicles. Yes, the causes that specialty plates exhibit are meaningful to their constituencies and have been pretty reliable sources of funds for supporting

¹¹ OK, the last two are made-up, but not beyond the realm of possibility.

organizations. Some of them *are* inspired works of art. No one would argue against the idea that veterans deserve special recognition or that donating to a university's scholarship program is a worthwhile endeavor. We do love our cars and we love our state, but legibility of the number and rationality among the driving public must not be lost in the midst of all the mayhem.

As of January 7, 2002, there were 85,428 personalized license plates registered in Montana, 51,407 specialty plates, and 976,371 2000-issue plates.

The Beast in Volume 8 is gathering strength for the 2003 session. Beware all who thoughtlessly tread near its lair. Few will be spared to pass its legend on to those who will follow.

Personalized Plate Index Sampler

(edited for size and content)

10C = Tennessee	JMN = jammin'
10S = tennis	K = ok ('kay)
1CE = once	LV = love
1DRFL = wonderful	MN8 = emanate
21 SHN = tuition	MT = empty
2LN = toolin'	MZLTF = mazel tov
2M8O = tomato	N2 = into
4N = foreign	N4C = enforce
4ORD = ford	NE1 = anyone
6S = success	NV = envy
AU = gold	PNBL = pinball
AV8 = aviate	PRFXN = perfection
BA6 = basics	QS10 = question
BB = baby	QT = cutie
BG8S = Bill Gates	R8RS = Raiders
BN = bein'	RZN = raisin'
BZ = busy	SED8 = sedate
CLA6 = classics	SQP = scoop
CN = seein'	SYCD = phsyched
CRZ = cruise	TA2 = tattoo
D8 = date	THRP = therapy
D8N = datin'	TNT = dynamite
D9 = denyin'	TRK = truck
DMN = demon	U4IA = euphoria
DS = this	UDR = other
EDUC8 = educate	UUUU = for you
EL8 = elate	W8R = waiter
FASN8 = fascinate	XI S = tennis
FN = fun	XLR8 = accelerate
FREQ = freak	XNTRK = eccentric
H8 = hate	YFS = wife's
IMAUFO = self-explanatory	YY = (too) wise
IR8 = irate	

For tons of fun with friends and family...cut out and enjoy!

*Small Sample of
Personalized Plate
Proposals Denied by the
Montana Department of
Justice**
(most are not
appropriate for public
consumption)
LIC2KIL
DRDEATH
DOOBIE
LIFESUX
WILKILL
INOGO55
DRUNK**
DUI ***

**as reported by Ed
Kemnick for the Billings
Gazette*

***In Kemnick's words,
this plate would "at least
have been some service
to law enforcement."*

****ditto.*



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL BLDG.

FEBRUARY

February 7, EQC Coalbed Methane/Water Policy Subcommittee, Room 102, 8 a.m.

February 7, EQC Agency Oversight/MEPA Subcommittee, Room 152, 8:30 a.m.

February 7, EQC Energy Policy Subcommittee, Room 317, 8:30 a.m.

February 7, HJR 1 Study of Public Mental Health Services, Room 172, 8:30 a.m.

February 7, POINTS Subcommittee, Room 137, 9 a.m.

February 7 (12:30 p.m.) and 8 (8:30 a.m.), Revenue and Taxation Committee, Room 137

February 8, HJR 1 Study of Public Mental Health Services, at the Montana State Hospital

February 8, Environmental Quality Council, Room 102, 8 a.m.

February 12 (1 p.m.) and 13 (8 a.m.), Children, Families, Health, and Human Services Committee, Room 102

February 14, SJR 22 Subcommittee on Health Care and Health Insurance, Room 137, 9 a.m.

February 14, Transition Advisory Committee Transmission Subcommittee Room 102, 10 a.m.

February 14, Transition Advisory Committee Universal System Benefits Programs Subcommittee, Room 172, 8 a.m.

February 15, Transition Advisory Committee, Room 317

February 15, Economic Affairs Committee, Room 137, 10 a.m.

MARCH

March 13, Joint Subcommittee on Postsecondary Education Policy and Budget, Room 102, 10 a.m.

March 14, SB 162 Subcommittee on Review of State Revenues Dedicated to Local Government, Room 137

March 14 and 15, Legislative Finance Committee, Room 102

March 25 and 26, Legislative Audit Committee, Room 102

March 27, State-Tribal Relations, Room 102

March 28 and 29, Law and Justice Interim Committee, Room 137